

**SERVICES AGREEMENT**

between

**DEEPMIND TECHNOLOGIES LIMITED**

and

**Yeovil District Hospital NHS Foundation Trust**

**THIS AGREEMENT** is effective as of the Effective Date

## **PARTIES**

- (1) **DEEPMIND TECHNOLOGIES LIMITED** incorporated and registered in England and Wales with company number 07386350 whose registered office is at 5 New Street Square, London, United Kingdom, EC4A 3TW ("**DeepMind**"); and
- (2) **YEOVIL DISTRICT HOSPITAL NHS FOUNDATION TRUST** having its registered address at Higher Kingston, Yeovil BA21 4AT (the "**Trust**").

each a "**Party**" and together the "**Parties**".

## **BACKGROUND**

- (A) DeepMind is a technology company, specialising in understanding and developing software and artificial intelligence through the combination of cutting edge techniques from machine learning and systems neuroscience, in order to build and power general-purpose learning algorithms.
- (B) The patient safety and clinical communication needs of the Trust are large and well suited to advanced mobile software solutions.
- (C) The Trust wishes to be provided with, and DeepMind is willing to supply, the Services on the terms and conditions of this Agreement.
- (D) The Trust is a registered data controller that is acting as commissioner of data processing services from DeepMind to support the direct care of Trust patients.

## **THE PARTIES AGREE AS FOLLOWS:**

### **1. INTERPRETATION**

The following definitions and rules of interpretation apply in this Agreement.

#### **Definitions:**

- |                            |   |
|----------------------------|---|
| <b>"Acceptance Tests":</b> | has the meaning given to it in Schedule 7.  |
| <b>"Affiliate":</b>        | in relation to DeepMind: (a) its parent company and (b) any corporate body of which DeepMind directly or indirectly has control or which is directly or indirectly controlled by the same person or group of persons as DeepMind. |
| <b>"Agreement":</b>        | this agreement comprising its Clauses and schedules and   |

appendices attached to it.

<b>"Application"</b>	a piece of software that utilises the FHIR API.
<b>"Applicable Law":</b>	the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision or receipt of the Services and are binding on the relevant Party.
<b>"Audit Services":</b>	the services referred to at Clause 7.
<b>"Background IPR":</b>	any IPR that is owned or controlled by or licensed to a Party prior to the date of this Agreement or that is developed or created by or on behalf of a Party otherwise than in the course of the provision of the Services pursuant to this Agreement. Without limitation to the foregoing, the Trust's Background IPR includes any IPR subsisting in or covering the Data and DeepMind's Background IPR includes any IPR subsisting in or covering the DeepMind Software and Documentation.
<b>"Change":</b>	any change to this Agreement including to the Project Initiation Document and/or to any of the Services.
<b>"Change Control Procedure":</b>	the procedure for changing this Agreement, as set out in Clause 13.
<b>"Confidential Information":</b>	any information, data and/or materials belonging or licensed to one Party (or in the case of DeepMind, its Affiliate) which the other Party may receive or obtain in connection with this Agreement that: (i) is personal data (as defined in the Data Protection Legislation); (ii) is marked as confidential; (iii) will or is likely to prejudice the interest of the disclosing Party if disclosed; or (iv) is a trade secret of the disclosing Party; and/or (v) ought reasonably to be understood to be confidential in nature, including, in the case of DeepMind, the Developments and the FHIR API, and, in the case of the Trust, the Data.
<b>"Data":</b>	the data to be made available by the Trust to DeepMind for the purposes of providing the Services, as described in Appendix 1 to the IPA.
<b>"Data Controller":</b>	has the meaning set out in the Data Protection Legislation.
<b>"Data Management"</b>	the services referred to at Clause 4.

**Services":**

**"Data Processor":** has the meaning set out in the Data Protection Legislation.

**"Data Protection Legislation" :** the Data Protection Act 1998 as amended, extended, re-enacted and/or any replacement legislation thereafter from time to time.

**"Data Subject":** has the meaning given to it in the Data Protection Legislation.

**"DeepMind's Services Manager":** the person identified as such pursuant to Clause 11.1.

**"DeepMind Software":** Streams: Mobile Platform and Streams: Task Management (described more specifically in Schedule 4 (DeepMind Software Services)).

**"DeepMind Software Services":** the services referred to in Clause 5.

**"Developments":** all technology, designs, works, inventions, discoveries, software, data, techniques, learnings, algorithms, know-how and other material that in each case are first conceived of or are first generated in whole or in substantial part in the course of providing the Services or other activities contemplated under this Agreement, including any output classification, characterisation and information gleaned from the Data.

**"Dispute":** any dispute arising under, out of or in connection with this Agreement.

**"Documentation":** any technical specifications, user manuals, operating manuals, process definitions and procedures, and all such other documentation as may be provided by DeepMind to the Trust in relation to the Services and/or developed by DeepMind in order to provide the Services including without limitation the Streams User Guide and the Support Guide.

**"Effective Date":** the date on which this Agreement is signed by the Parties or, if signed on separate dates, the date on which the last Party signs.

**"End Users":** has the meaning given in Clause 5.1

**"Exit Migration Services":** those services reasonably required to enable the orderly cessation of the Data Management Services by the transfer of the Data to the Trust in a format that allows the Trust to

enable a suitably qualified and experienced service provider to provide services akin to the Data Management Services.

<b>"FHIR API":</b>	a generalised, open application programmable interface (FHIR DSTU2 (and/or future standard) with local profiles and extensions developed by DeepMind.
<b>"FOIA":</b>	the Freedom of Information Act 2000 as the same may be amended, extended, re-enacted or replaced from time to time.
<b>"Hospitals":</b>	each of the hospitals within the Trust as of the Effective Date; being Yeovil District General Hospital (as configured as at the Effective Date).
<b>"ICO":</b>	means the Information Commissioner's Office or any successor thereto from time to time;
<b>"Initial Term":</b>	the period commencing on the Effective Date and ending on the fifth anniversary of the Effective Date.
<b>"IPA":</b>	the Information Processing Agreement between the Parties at Schedule 1 to this Agreement.
<b>"IPR":</b>	any and all patents, utility models, design rights, copyrights, moral rights, trade marks, domain names, database rights, registered and unregistered design rights, rights in respect of confidential information (including rights in know-how and trade secrets), and any other intellectual property rights, in each case whether registered or unregistered, and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>"Medical Devices Legislation":</b>	the Medical Devices Regulations 2002 (which implements Directive 93/42/EEC in the UK) and the General Product Safety Regulations 2005 (which implement Directive 2001/95/EC in the UK) as applicable, and as extended, amended or replaced from time to time and any relevant guidance, policies, advice or industry alerts produced by the Medicines and Healthcare products Regulatory Agency

(MHRA), the European Commission and/or any other regulator or competent body.

<b>"Milestone":</b>	an event or task described in the Project Initiation Document
<b>"Milestone Date":</b>	the target date (if any) set against the relevant Milestone in the Project Initiation Document for completion of the Milestone.
<b>"Mobile Device Policy":</b>	has the meaning given to it in Clause 23.
<b>"Payment Plan":</b>	the plan or schedule for payment of the Service Charges as set out in Schedule 2 (Service Charges).
<b>"Personal Data":</b>	means personal data (as defined under the Data Protection Legislation) which forms part of the Data.
<b>"Privacy Impact Assessment":</b>	a privacy impact assessment prepared in accordance with the Information Commissioner's Office's 'Conducting privacy impact assessments code of practice' or any modification or replacement thereof.
<b>"Project Initiation Document":</b>	The document used to manage the project for the implementation and provision of the Services set out in Schedule 4 (DeepMind Software and FHIR API Development Services) / to be agreed between the Parties within thirty (30) days of the Effective Date, and as may be amended from time to time in accordance with the Change Control Procedure.
<b>"Project Governance Board":</b>	has the meaning given to it in Clause 12.1.
<b>"Publication":</b>	has the meaning given to it in Clause 24.3.
<b>"Replacement Supplier":</b>	any supplier who will carry out all or any services similar to the Services in replacement of DeepMind.
<b>"Representative":</b>	has the meaning given to it in Clause 21.1.
<b>"Regulatory Body":</b>	<p>any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party must comply or which it or they must have regard, including but not limited to:</p> <ul style="list-style-type: none"><li>(a) Information Commissioner's Office;</li><li>(b) Care Quality Commission;</li><li>(c) Monitor/NHS Trust Development Authority/NHS</li></ul>

Improvement;

(d) NHS England; and

(e) the Department of Health.

<b>"Service Charges":</b>	the charges and any other payments which shall become due and payable by the Trust to DeepMind in respect of the Services in accordance with the provisions of this Agreement, as such charges are set out in Schedule 2 (Service Charges).
<b>"Services":</b>	the services to be delivered by or on behalf of DeepMind under this Agreement, including the Data Management Services; the DeepMind Software Services; the Support Services; the Audit Services; and, if so agreed pursuant to Clause 29.8.1, the Exit Migration Services; and a reference to the Services means any of the Services (or any part of any of them).
<b>"Services Managers":</b>	the Trust's Services Manager and DeepMind's Services Manager.
<b>"Streams: Mobile Platform":</b>	the Streams: Mobile Platform mobile application, being a Class I non-measuring medical device provided in the form of a standalone mobile software application that can presently assess the real-time detection of AKI with patients and which is extensible generally to (i) patient safety alerts, and (ii) real time detection and decision support to support treatment and avert clinical deterioration across a range of diagnoses and organ systems (through viewing pathology and radiology results and reports), including any new releases and/or new versions (including, without limitation, releases to include the development of functionality for vital signs entry and viewing as set out in the Project Initiation Document) provided as part of the Support Services.
<b>"Streams: Task Management":</b>	the Streams: Task Management mobile application to be developed by DeepMind, being a clinical task management and text based messaging platform provided in the form of a mobile software application, including any new releases and/or new versions provided as part of the Support Services
<b>"Streams User Guide":</b>	the user guide (in electronic format) for the DeepMind Software to be provided by DeepMind to the Trust pursuant to Clause 5.1 as the same may be updated by DeepMind and

provided to the Trust from time to time.

<b>"Sub-Contract":</b>	any contract between DeepMind and a third party pursuant to which DeepMind agrees to source the provision of any of the Services from that third party.
<b>"Sub-Contractors":</b>	those persons with whom DeepMind enters into a Sub-Contract or its or their servants or agents.
<b>"Support Guide":</b>	the support and maintenance guide to be provided to the Trust by DeepMind, as the same may be updated by DeepMind and provided to the Trust from time to time.
<b>"Support Services":</b>	the services referred to at Clause 6.
<b>"Term":</b>	<p>the period of the Initial Term as may be varied by:</p> <p>(a) any extensions to this Agreement which are agreed pursuant to Clause 2.2. or</p> <p>(b) the earlier termination of this Agreement in accordance with Clause 29.</p>
<b>"TUPE Regulations":</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006.
<b>"Trust's Services Manager":</b>	the person identified as such pursuant to Clause 11.1.
<b>"Trust's Responsibilities":</b>	the responsibilities and/or obligations of the Trust as specified in this Agreement (including without limitation in the IPA and Schedule 8 (Trust Responsibilities)).
<b>"VAT":</b>	value added tax as provided for in the Value Added Tax Act 1994, as amended, extended, re-enacted or replaced from time to time.
<b>"Working Day":</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.



- 1.3. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.4. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5. Unless the context requires otherwise, words in the singular include the plural and in the plural include the singular.
- 1.6. Unless the context requires otherwise, a reference to one gender shall include a reference to the other genders.
- 1.7. A reference to a statute or statutory provision is a reference to it as amended, extended, re-enacted or replaced from time to time.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9. A reference to writing or written includes fax and email.
- 1.10. A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.11. Unless the context otherwise requires, references to Clauses and schedules are to the Clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the relevant schedule.
- 1.12. Any words following the terms including, include, in particular, for example or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms.

## **2. COMMENCEMENT AND DURATION**

- 2.1. This Agreement shall take effect on the Effective Date and, subject to Clauses 2.2 and 29, shall continue for the Term.
- 2.2. At least twelve (12) months prior to expiry of the Initial Term, the Parties shall meet to discuss and agree, acting on good faith, whether to extend the Initial Term for such further periods of time as the Parties consider appropriate, taking into account progress and fulfilment of the Project Initiation Document.

2.3. If the Parties cannot agree upon any such extension, this Agreement shall expire on the expiry of the Initial Term.

### **3. SERVICES**

3.1. The Trust appoints DeepMind to provide, and DeepMind agrees to provide, the Services to the Trust pursuant to the terms and conditions of this Agreement.

3.2. In providing each of the Services, DeepMind shall at all times:

- 3.2.1. use reasonable skill, care and diligence;
- 3.2.2. allocate sufficient resources to provide the Services in accordance with the terms of this Agreement;
- 3.2.3. comply with the relevant scope of Services as set out in Schedule 4 (DeepMind Software Services) and Schedule 6 (DeepMind Software Support and Maintenance Services); and
- 3.2.4. provide such reasonable co-operation and information in relation to the Services to such of the Trust's other suppliers as the Trust may reasonably require for the purposes of enabling such suppliers to create and maintain any interfaces that may be reasonably required by the Trust to interact with the FHIR API.

3.3. DeepMind shall use reasonable endeavours to achieve each of the Milestones by the relevant Milestone Date set out in the Project Initiation Document, but any such dates shall be estimates only.

3.4. If, at any time, DeepMind becomes aware that it will not (or is unlikely to) successfully achieve any Milestone by the applicable Milestone Date, it shall promptly inform the Trust of the fact of the delay, the reasons for the delay, the consequences of the delay for the timescales set out in the Project Initiation Document and how DeepMind proposes to mitigate the delay. The Parties shall agree an appropriate extension to the timescales (including any Milestone Dates) specified in the Roadmap in accordance with the Change Control Procedure as set out in Clause 13.

### **4. DATA MANAGEMENT SERVICES**

4.1. With effect from the date specified in the Project Initiation Document, DeepMind shall, acting as a Data Processor for the Trust as Data Controller, provide and

maintain one (1) or more data centres in England for the storage and maintenance of the Data.

- 4.2. The Trust shall provide the Data to DeepMind in the manner and on the dates set out in the Project Initiation Document. Following delivery of each batch of Data, DeepMind shall provide the Trust with a data quality report relating to that batch of Data. The Trust shall address any issues with the Data described in each data quality report and, if appropriate, correct such issues and resubmit the Data to DeepMind.
- 4.3. The Parties shall each comply with their respective obligations under the IPA in relation to the processing of the Data.
- 4.4. On the provision of reasonable notice the Trust will have access to the areas of the data centre in which the Data is stored; for extraction, reporting, interfacing via the FHIR API or as otherwise agreed between the Parties.

## 5. DEEPMIND SOFTWARE

- 5.1. With effect from the date specified in the Project Initiation Document, DeepMind shall provide the DeepMind Software and the Streams User Guide to the Trust for the Trust to make the DeepMind Software and the Streams User Guide available to individuals who are employees of the Trust or its Hospitals ("**End Users**"), on and subject to the terms of this Agreement.
- 5.2. The Trust shall ensure that the DeepMind Software is made available to End Users subject to their acceptance of an end-user licence agreement consisting of terms of use set out in the DeepMind Software and as may be updated by DeepMind from time to time (provided that such terms of use (and updates thereof) shall be terms of use applied by DeepMind in accordance with its normal business practice and shall not require the End Users to pay a licence or other fee in connection with the same).
- 5.3. If so agreed between DeepMind and the Trust, DeepMind will provide basic training to prospective End Users as to the use of the DeepMind Software. Such training will be provided at a time and location to be agreed between the Parties.
- 5.4. The Parties intend that the Trust shall also carry out training on the DeepMind Software for its End Users. In order for the Trust to be able to carry out such training, DeepMind has agreed to provide training on the DeepMind Software to the core Trust training team to enable them to cascade the training within the Trust. Such training shall be provided, at no additional cost at a location and time to be agreed by the Parties (such agreement not to be unreasonably withheld or delayed) and for the

duration necessary to enable the core Trust training team to provide training on the DeepMind Software to its End Users.

- 5.5. **Steams: Additional Module Development.** No later than thirty (30) days after the Effective Date, the Parties shall commence discussions to agree on a roadmap under which DeepMind develops additional functionalities of the DeepMind Software, in order to deliver to the Trust a mobile platform as agreed between the parties.

## 6. SUPPORT AND MAINTENANCE SERVICES

- 6.1. With effect from the date specified in the Project Initiation Document, DeepMind shall provide the Trust with remote maintenance and support for the DeepMind Software in accordance with the Support Guide and the scope of Support Services as set out in Schedule 6 (DeepMind Software Support and Maintenance Services).

## 7. AUDIT SERVICES

- 7.1. With effect from the date specified in the Project Initiation Document, DeepMind shall use reasonable endeavours to develop and provide the Trust with additional services to allow the Trust to obtain an accessible audit history in relation to the Data. This service will initially be provided through a service request made via the support desk. The Trust shall be able to request reports detailing the following information: when a data item has been requested for viewing or amending; details of the user account that requested the data item; and any updates or strike throughs made to that data item. In all instances the aforementioned information will be accompanied by a date and time stamp.

## 8. TRUST RESPONSIBILITIES

- 8.1. The Trust shall:

- 8.1.1. provide DeepMind with:

- (a) all necessary co-operation in relation to this Agreement; and
- (b) all necessary access to such information as may be required by DeepMind in order to render the Services in relation to this Agreement, including but not limited to the Data, security access information and software interfaces to the Trust's other applications subject to the limitation that the Trust shall not provide DeepMind with access to the Personal Data of patients who are not Active Patients (as defined in the IPA);

- 8.1.2. provide such personnel assistance, including from the Trust's Services Manager and other Trust personnel, as may be reasonably requested by DeepMind from time to time;
- 8.1.3. comply with all Applicable Law with respect to its activities under this Agreement;
- 8.1.4. carry out the specific tasks described in Schedule 8 (Trust's Responsibilities); and
- 8.1.5. carry out all other Trust Responsibilities set out in this Agreement (including in the IPA) in a timely and efficient manner.

8.2. Notwithstanding any other provision of this Agreement, DeepMind shall:

- 8.2.1. not be in breach of this Agreement or the IPA as a result of any failure to perform its obligations under this Agreement or the IPA; or
- 8.2.2. not be liable under or in connection with this Agreement or the IPA; and,
- 8.2.3. shall be entitled to recover such reasonable costs as it incurs and to invoice such costs in accordance with Clause 9 (Charging and Invoicing),

to the extent that the breach or the liability or reasonable costs incurred result from a failure or delay by the Trust in carrying out the Trust Responsibilities.

8.3. If, at any time, the Trust becomes aware that there will be a delay in the performance or non-performance of an obligation on the Trust, it shall promptly inform DeepMind of the fact of the delay or non-performance, the reasons for the delay or non-performance, the consequences of the delay or non-performance for the timescales set out in the Project Initiation Document and how the Trust proposes to mitigate the delay. The Parties shall agree an appropriate extension to the timescales (including any Milestone Dates) specified in the Roadmap in accordance with the Change Control Procedure.

## **9. CHARGING AND INVOICING**

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9.5. Except as otherwise provided, the Parties shall each bear their own costs and expenses incurred in respect of compliance with their obligations under this Agreement.

9.6. All sums payable by either Party under this Agreement shall be paid in sterling.

9.7. Each Party shall be solely responsible for all taxes, national insurance or other withholdings or contributions which may be payable out of or as a result of the receipt of any monies paid or payable to it in respect of this Agreement provided that the Service Charges payable are exclusive of VAT and all other similar taxes and duties which, if applicable, shall be payable in addition.

9.8. Without prejudice to any other right or remedy that it may have, if either Party fails to pay the other any sum due and payable under this Agreement by the due date, the paying Party shall pay interest on the overdue amount at the rate of 3% per annum above the Barclays Bank plc base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

## 10. SUPPLY CHAIN

10.1. DeepMind shall not sub-contract any of its obligations under this Agreement without the Trust's prior written consent to the identity of the Sub-Contractor

and the nature of the services that shall be sub-contracted to them, which consent shall not be unreasonably withheld or delayed. The Trust hereby irrevocably consents to DeepMind sub-contracting to the entities listed in Schedule 3 (Sub-Contractors) for the sub-contracted services as also set out in Schedule 3 (Sub-Contractors). If the proposed Sub-Contractor will process Data that is Personal Data as a sub-processor of DeepMind, DeepMind shall ensure that its contract with the relevant Sub-Contractor complies with the requirements of the IPA (including, without limitation, section 4.1(f) of the IPA).

- 10.2. In order to help the Trust reach a decision on a proposed Sub-Contract, DeepMind shall provide the Trust with a copy of any proposed Sub-Contract, together with any other information that the Trust may reasonably require about the proposed Sub-Contractor and the impact of the proposed Sub-Contract on this Agreement.
- 10.3. Despite its right to sub-contract pursuant to this Clause 10, DeepMind shall remain responsible and liable for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own. An obligation on DeepMind to do, or to refrain from doing, any act or thing shall include an obligation on DeepMind to procure that its employees, staff and agents and Sub-Contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

## 11. PROJECT MANAGEMENT

- 11.1. No later than ten (10) days after the Effective Date, each Party shall appoint a Services Manager and shall notify the other Party of the name and qualifications of the person appointed as its Services Manager. The Services Managers shall have the responsibility and commensurate authority for management of the day-to-day delivery of and progress of the Services.
- 11.2. The Parties' Services Managers shall co-operate with one another and shall attend meetings at reasonable intervals not less than once a fortnight to advise and assist the other Party on all matters relating to the Services.
- 11.3. If either Party's Services Manager is replaced, that Party shall consult with the other Party's Services Manager about the identity of a suitable replacement.
- 11.4. DeepMind shall prepare and submit to the Trust a report on the progress of the Services at reasonable intervals, showing completed Milestones (as identified

in the Project Initiation Document) and sprint burn-down charts, and identifying any issues or risks to the delivery of the Services identified during that period.

- 11.5. Each Party shall comply with its obligations as set out in Schedule 9 (Resource).

## 12. PROJECT GOVERNANCE

- 12.1. The Parties shall establish a governance board as a sub-group of the Trust's Streams Programme Board, consisting of individual representatives of each Party ("**Project Governance Board**"). The Project Governance Board is advisory in nature (see Clauses 12.3 and 12.7). The initial representatives of the Parties shall be notified by each Party to the other within ten (10) days of the Effective Date and terms of reference will be drafted within thirty (30) days of the Effective Date.
- 12.2. Each Party may from time to time change its representatives on the Project Governance Board by notifying the other Party with the name of its new representative.
- 12.3. The Project Governance Board will be responsible for the overall management of the Services, including:
- 12.3.1. monitoring and reviewing the progress of the Services and agreeing plans to mitigate any risks in relation to delays or failures in meeting any timescales specified in the Project Initiation Document;
  - 12.3.2. reviewing, and (where applicable in accordance with the (Project Initiation Document) signing off on successful completion of, any Milestones specified in the Project Initiation Document;
  - 12.3.3. meeting at least once every month (or more frequently as agreed between the Parties) to discuss the progress of the Services;
  - 12.3.4. considering and agreeing Changes pursuant to the Change Control Procedure; and
  - 12.3.5. liaising with the Information Governance Board established pursuant to the IPA and consulting with the Information Governance Board in relation to issues relevant to the Parties' obligations under the IPA.



- 12.4. All material decisions of the Project Governance Board shall be recorded in writing.
- 12.5. Each Party shall be entitled to convene a meeting of the Project Governance Board which, unless otherwise agreed between the Parties, will require no less than fourteen (14) days' notice to the other Party.
- 12.6. The quorum for a meeting of the Project Governance Board shall be two (2) individuals, one (1) representing each Party. No valid meeting of the Project Governance Board may be held unless a quorum is present. All decisions of the Project Governance Board must be unanimous but neither Party shall be bound by its decisions until such time as the Parties agree a formal change in accordance with the Change Control Procedure.
- 12.7. For the avoidance of doubt, the Project Governance Board shall not have the power to make any Changes to the provisions of this Agreement, but may recommend to the Parties Changes to this Agreement to be made in accordance with the Change Control Procedure.

### **13. CHANGE CONTROL PROCEDURE**

- 13.1. Any requirement for a Change shall be subject to the Change Control Procedures set out in this Clause 13:
  - 13.1.1. If either Party wishes to propose any Change, it shall submit details of the requested Change to the other via the Project Governance Board in writing.
  - 13.1.2. If either Party requests a Change, DeepMind shall, if applicable and within a reasonable time, provide a written estimate to the Trust of:
    - (a) the likely time required to implement the Change;
    - (b) any variations to the Service Charges arising from the Change;
    - (c) the likely effect of the Change on the Project Initiation Document; and
    - (d) any other impact of the Change on the terms of this Agreement and/or the IPA.
  - 13.1.3. Subject to Clause 13.5, within a reasonable period from receipt of the estimate referred to in Clause 13.1.2, the Project Governance Board

shall discuss and agree whether the requested Change shall be made. Subject to Clause 13.6, if DeepMind requests a Change to the scope of the Services, the Trust shall not unreasonably withhold or delay consent to it.

- 13.2. If the Parties agree to proceed with the Change, DeepMind shall not have any obligation to proceed with the Change unless and until the Parties have agreed and signed a written agreement specifying, in particular, any changes to the Service Charges and/or the Project Initiation Document.
- 13.3. The Parties have agreed that a change to the configuration of the Trust or its Hospitals shall not constitute a Change under this Agreement save where such change to the configuration:
  - 13.3.1. is due to the Trust merging with or acquiring another healthcare organisation (or part thereof). A merger or acquisition in this context shall include the Trust taking over all or some of another organisation's physical hospital(s)); and
  - 13.3.2. causes an increase of five per cent (5%) or more in the number of End Users.
- 13.4. The Trust shall notify DeepMind promptly on becoming aware of any merger or acquisition that may impact on the configuration of the Trust or its Hospitals and/or any event which may or is likely to cause an increase of five per cent (5%) or more in the number of End Users.
- 13.5. In respect of any Change, the Trust shall determine whether a Privacy Impact Assessment is required and if required the Parties shall co-operate in good faith to promptly complete a Privacy Impact Assessment prior to considering whether to proceed with a Change. If the Change requires an additional Processing purpose of the Data, a new Privacy Impact Assessment will be developed to evaluate the associated risks.
- 13.6. The Parties agree that they shall enter into such variation of this Agreement and/or the IPA as is reasonably required to reflect their obligations under the GDPR (once the same comes into effect) and in order for the Parties to perform their respective obligations in a manner that will assist both the Trust and DeepMind to be compliant with the GDPR, based on the Trust's obligations as Data Controller and DeepMind's obligations as Data Processor. For the purposes of this Clause 13.6, "GDPR" means the Regulation (EU)

2016/679 of the European Parliament and the Council on the Protection of individuals with regard to the processing of Personal Data and on the free movement of such data.

#### **14. PERSONNEL**

- 14.1. DeepMind undertakes that its employees and contractors, while on the Trust's premises, will comply with all relevant and lawful rules and regulations laid down by the Trust from time to time for the behaviour of its own employees and contractors, as notified in writing to DeepMind from time to time.
- 14.2. Each Party shall comply with its obligations under the TUPE Regulations (and, in the case of the Trust, it shall procure that any Replacement Supplier shall also comply) in circumstances where the TUPE Regulations apply, on the cessation of all or any part of the Services under this Agreement and the commencement of any similar services with a Replacement Supplier.

#### **15. IPR OWNERSHIP**

- 15.1. All Background IPR is and shall remain the exclusive property of the Party owning it (or, where applicable, the third party from whom its right to use the Background IPR has derived) and this Agreement does not affect the ownership of any such Background IPR, or any technology, designs, works, inventions, software, data, techniques, know-how or other materials independently developed by or on behalf of either Party during the Term. No rights are granted by either Party under its Background IPR except as expressly set out in this Agreement.
- 15.2. DeepMind shall own the IPR subsisting in or covering (i) the FHIR API; (ii) the DeepMind Software; (iii) the Documentation; and (iv) the Developments, and any improvements, modifications or developments to or derivative works of any of the foregoing and including, for the avoidance of doubt, any other IPR which may be developed or created by or on behalf of DeepMind in the design, development and/or deployment of the FHIR API or the DeepMind Software or otherwise in the provision of the Services
- 15.3. The Parties agree that the Trust may itself develop Extensions and Applications and consequently the Trust shall own any IPR in such Extensions and Applications which the Trust develops and/or implements itself. If DeepMind requests a licence to some or all such Extensions or Applications,

the Parties shall negotiate in good faith to agree the terms of such licence from the Trust to DeepMind.

- 15.4. Without prejudice to any other right of the Trust under this Agreement or the IPA, the Trust shall do and execute or arrange for the doing and execution of each necessary act, document and thing that is necessary in order for DeepMind to perfect the right, title and interest of DeepMind in and to the IPR owned by DeepMind pursuant to Clause 15.2.

## **16. LICENCE TO BACKGROUND IPR**

- 16.1. The Trust grants to DeepMind (i) a non-exclusive, royalty-free, world-wide, sub-licensable licence to use the Trust's Background IPR (including any IPR subsisting in the Data) during the Term solely for the purpose of provision of the Services by DeepMind pursuant to this Agreement; and (ii) a non-exclusive, royalty-free, perpetual, irrevocable, world-wide, sub-licensable licence to use, copy, prepare derivative works of and otherwise use and exploit for DeepMind's business purposes the Trust's Background IPR (other than Background IPR subsisting in the Data) to the extent that such Background IPR is incorporated into the FHIR API and/or the DeepMind Software and/or the Documentation and/or the Developments, and any improvement, modifications, developments to and/or derivative works of any of the foregoing.

## **17. LICENCE TO FHIR API**

- 17.1. DeepMind grants to the Trust, on and subject to the terms of this Agreement, a non-exclusive, non-transferable, non-sublicensable, royalty-free licence to use the FHIR API during the Term solely for the Trust's and/or its Hospitals' internal non-commercial use (which shall include the Trust or its Hospitals allowing third party suppliers to use FHIR API on its behalf subject to all relevant licence restrictions, and, for the avoidance of doubt, excluding use by or on behalf of the Trust or its Hospitals for the purpose of providing services to any third parties).

## **18. LICENCE TO DEEPMIND SOFTWARE AND DOCUMENTATION**

- 18.1. DeepMind grants to the Trust, on and subject to the terms and conditions of this Agreement, a non-exclusive, non-transferable, non-sublicensable licence to allow End Users to use the DeepMind Software (in object code only) and the Documentation during the Term solely for the Trust's or that of its

Hospitals' internal, non-commercial use (and excluding, for the avoidance of doubt, use by or on behalf of the Trust for the purpose of providing services to any third parties).

## 19. LICENCE RESTRICTIONS

- 19.1. Except as expressly permitted under this Agreement (including the Trust's rights to create Extensions and Applications under Clause 15.3) or by Applicable Law which is incapable of exclusion by the Parties, the Trust shall not (and shall procure that its Hospitals shall not) (a) sub-license, rent, lend, assign or transfer in any other way the FHIR API, DeepMind Software or Documentation to any person, (b) make adaptations, derivative works or variations of the FHIR API, DeepMind Software or Documentation, or (c) disassemble, decompile, reverse engineer or in any other manner decode the FHIR API, DeepMind Software or Documentation, in each case without the prior written consent of DeepMind.
- 19.2. The Trust may make such copies of the FHIR API and/or the Documentation as are reasonably necessary for use in accordance with this Agreement and for the purposes of backup and security. The Trust has no right to make, or authorise the making of, any other copies of the FHIR API or the DeepMind Software or the Documentation and shall take reasonable steps to prevent unauthorised copying. DeepMind will own all such copies and the Trust shall ensure that all proprietary notices contained in the FHIR API and/or the DeepMind Software and/or the Documentation shall be maintained in such copies. DeepMind will provide development, test, training and live environments for the Trust to use.
- 19.3. The Trust and its Hospitals shall not:
  - 19.3.1. give access to the FHIR API and/or DeepMind Software and/or the Documentation through any network of computers to users who are not employees or contractors of the Trust or its Hospitals;
  - 19.3.2. sub-license, rent, lend, assign or transfer in any other way the FHIR API and/or the DeepMind Software and/or Documentation to any person except to the extent expressly set out in this Agreement;
  - 19.3.3. attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the DeepMind Software and/or the FHIR API and/or the Documentation except to the extent expressly set

out in this Agreement or as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the Parties;

- 19.3.4. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the DeepMind Software and/or the FHIR API, except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the Parties; or
- 19.3.5. use all or any part of the DeepMind Software and/or the FHIR API and/or the Documentation in order to build a product or service which competes with the DeepMind Software and/or the Services save that the Trust may develop Extensions and Applications in accordance with Clause 15.3.

## 20. MEDICAL DEVICE REGULATORY COMPLIANCE

- 20.1. Streams: Mobile Platform is a Class I medical device without a measuring function in the form of a standalone mobile software application, in accordance with the definition of a medical device in the Medical Devices Legislation.
- 20.2. Streams: Mobile Platform is intended to be used by registered healthcare professionals (clinicians) in secondary care in England that are involved in the treatment of Acute Kidney Injury ("AKI"). The device permits access to clinicians when they are authorised by the organisation using the organisation's authentication server.

The device provides the clinician the raw data from the servers used by the organisation and a notification when a patient is detected to be experiencing AKI along with the AKI severity. The AKI severity is obtained by processing the raw data using the device's own coded version of the NPSA algorithm. The AKI severity is then used to notify clinicians of patients who may need a more urgent clinical intervention. Only patients undergoing creatinine blood tests will cause such a notification, however, all patients that are admitted to the organisation can also be viewed together with tests that they have had conducted.

The device is intended to be used alongside existing Electronic Health Records and Pathology systems within the organisation and must not be considered a replacement.

The clinician is able to lookup a patient by their name, NHS number, date of birth or Medical Record Number (MRN), view their test results and coded diagnoses as well as mark (starring) them for viewing later if required.

- 20.3. The manufacturer of Streams: Mobile Platform within the meaning set out in the Medical Devices Legislation is DeepMind Technologies Limited.
- 20.4. DeepMind shall ensure that:
  - 20.4.1. Streams: Mobile Platform is CE marked and managed in accordance with the Medical Devices Legislation;
  - 20.4.2. the clinical performance and safety of Streams: Mobile Platform is appropriately monitored and that updates, fixes and software patches to Streams: Mobile Platform are made where necessary and in accordance with the Medical Devices Legislation; and
  - 20.4.3. it provide to the Trust details of any complaints, malfunctions or problems provided to DeepMind by End Users and relating to the use of Streams: Mobile Platform as soon as is reasonably practicable on becoming aware of the same.
- 20.5. The Trust will ensure that:
  - 20.5.1. any instructions that it provides to End Users regarding the use of Streams: Mobile Platform are consistent with the intended purpose, labelling and instructions for use included within the Streams: Mobile Platform software application; and
  - 20.5.2. it provides details of any complaints, malfunctions or problems with the use of Streams: Mobile Platform to DeepMind as soon as is reasonably practicable on becoming aware of the same.
- 20.6. The Trust will ensure that it has obtained any required authorisation and approvals that are necessary for its use of the DeepMind Software including clinical safety sign-off (ISBO160).
- 20.7. The Streams: Task Management software application is a separate function within the above mobile software application which is not a medical device since it does not have a medical purpose within the scope of the definition of a medical device in the Medical Devices Legislation, nonetheless:

- 20.7.1. the intended purpose of Streams: Task Management is to allow members of a clinical team to collaborate and send messages using a fast and familiar interface;
- 20.7.2. DeepMind will provide End Users with instructions for the appropriate use of Streams: Task Management;
- 20.7.3. the Trust will ensure that any instructions that it provides to End Users regarding the use of Streams: Task Management are consistent with the instructions provided by DeepMind; and
- 20.7.4. the Trust will provide details of any complaints, malfunctions or problems with the use of Streams: Task Management to DeepMind as soon as is reasonably practicable.

## 21. CONFIDENTIALITY

- 21.1. Subject to the remainder of this Clause 21 and Clause 22, each Party shall, and shall procure that its Affiliates, directors, employees, officers, agents, internal and external auditors or advisers ("**Representatives**") shall:
  - 21.1.1. not use or exploit the other Party's Confidential Information for any purpose other than envisaged under this Agreement;
  - 21.1.2. not disclose or make available the other Party's Confidential Information in whole or in part to any third party (other than its Representatives who need to know the Confidential Information for the purposes envisaged under this Agreement) or to the extent required by law or by a governmental or regulatory authority of competent jurisdiction; and
  - 21.1.3. not copy, reduce to writing or otherwise record the other Party's Confidential Information except as strictly necessary for the purposes envisaged under this Agreement.
- 21.2. The provisions of this Clause 21 shall not apply to:
  - 21.2.1. any information which is in the public domain at the date of this Agreement or which subsequently comes into the public domain other than by breach of this Agreement or any other confidentiality agreement;



- 21.2.2. any information obtained without any obligation of confidence from a third party that is not in breach of a confidentiality agreement with the disclosing Party concerning the information obtained; or
- 21.2.3. any information independently developed without access to the other Party's Confidential Information.
- 21.3. Nothing in this Clause 21 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business or activities to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.

## 22. FREEDOM OF INFORMATION ACT

- 22.1. DeepMind acknowledges that the Trust is subject to the FOIA and the Codes of Practice issued revised from time to time under both section 45 FOIA and regulation 16 of the Environmental Information Regulations 2004 ("EIR"), in each case as may be amended, updated or replaced from time to time.
- 22.2. DeepMind shall provide assistance and co-operation as reasonably requested by the Trust to enable the Trust to comply with its disclosure obligations under the FOIA and EIR. DeepMind and the Trust agree that:
  - 22.2.1. this Agreement, the IPA and any other recorded information held by DeepMind for the purposes envisaged under this Agreement and/or the IPA are subject to the obligations of the Trust under the FOIA and EIR;
  - 22.2.2. the Trust may be required to disclose information concerning DeepMind and this Agreement and/or the IPA. The Trust must give reasonable notice to DeepMind of any FOIA or EIR request it receives which relates to DeepMind, this Agreement and/or the IPA. The Trust agrees to give due consideration to any information provided by DeepMind about its position in relation to the request prior to making any disclosure of the information requested and the Trust shall inform DeepMind of its decision on whether to disclose the information requested in advance of informing the individual/s who made the request under FOIA or EIR. DeepMind accepts that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under

FOIA or EIR is a decision solely for the Trust to whom the request is addressed. However, DeepMind may, in providing information to the Trust, pre-emptively mark information that in DeepMind's reasonable view would be exempt from any subsequent FOIA or EIR request (for example, due to reasons of confidentiality or commercial sensitivity) and the Trust shall have due regard to such markings in making any determination; and

- 22.2.3. where DeepMind receives a request for information under FOIA or EIR relating to this Agreement and/or the IPA, it will not respond directly to that request (unless directed to do so by the Trust) and will promptly (and in any event within two (2) Working Days of receipt) transfer the request to the Trust.

## 23. DEVICE POLICY

- 23.1. Unless agreed otherwise with DeepMind, clinicians or employees working for the Trust will use their own device or Trust-owned devices to use the DeepMind Software.
- 23.2.
- 23.3. The Trust shall as a condition of this Agreement, and for the duration of this Agreement:
  - 23.3.1. have in place and maintain a mobile device policy that is consistent with currently accepted best practice and in line with relevant guidance issued by the Centre for the Protection of National Infrastructure, the Communications-Electronics Security Group and the ICO (the "**Mobile Device Policy**");
  - 23.3.2. maintain a policy regarding End User enrolment to Streams: Results Viewing and Alerting and Streams: Task Management ("**End User Enrolment Policy**"). Without limitation, the End User Enrolment Policy must set out the identification requirements, protocols and enrolment procedures for Streams: Results Viewing and Alerting and Streams: Task Management;
  - 23.3.3. ensures that only appropriate trained staff and qualified staff have access to Streams: Results Viewing and Alerting and Streams: Task Management and that appropriate restrictions on use are reflected in

the End User Enrolment Policy and enforced by the Trust, including without limitation the various levels of access to Streams: Results Viewing and Alerting and Streams: Task Management;

- 23.3.4. ensure that each clinician or employee is made aware of the Mobile Device Policy and End User Enrolment Policy and is provided with a copy of each to ensure that they understand and comply their obligations;
  - 23.3.5. inform DeepMind without unreasonable delay on becoming aware that any device using the DeepMind Software has been or may have been lost, stolen, damaged or accessed in an authorised manner; and
  - 23.3.6. ensure that only appropriate trained and qualified staff access the DeepMind Software and that appropriate restrictions on use are reflected in the Mobile Device Policy and enforced by the Trust.
- 23.4. The Trust shall procure that all its personnel who are given access to Streams: Results Viewing and Alerting and Streams: Task Management:
- 23.4.1. ensure that Streams: Results Viewing and Altering and/or Streams: Task Management is not used fraudulently, in connection with a criminal offence, or in breach of any law or statutory duty; and
  - 23.4.2. take all reasonable steps to prevent unauthorised access to Streams: Results Viewing and Altering and/or Streams: Task Management.
- 23.5. DeepMind shall not be liable for any losses (whether arising in contract, tort (including negligence) or otherwise) suffered or incurred by the Trust as a result of or in connection with the Trust's failure to comply with this Clause 23.

## 24. PUBLICATIONS

- 24.1. Any publication relating to the Services or this Agreement must be in accordance with the Anonymisation Standard for Publishing Health and Social Care Data - ISB 1523.
- 24.2. Prior to any publication relating to the Services or this Agreement, the draft publication will be subject to written approval by the Parties' Services Managers, who shall take into account Clause 24.1 above as well as the need

to avoid disclosure of either Party's Confidential Information or commercially sensitive information by the other Party. Without limitation to the foregoing, the publishing party will consider in good faith any reasonable requests made by the other party to remove or redact its Confidential Information or commercially sensitive information prior to publication of the same.

- 24.3. Each of the Trust and DeepMind acknowledges that the other Party (and, in the case of DeepMind, its Affiliates) may present the results relating to the provision and use of the Services at symposia and/or publish in academic journals or other media of their choosing (each, a "**Publication**"), subject to this Clause 24. The publishing party shall include an appropriate acknowledgement of the other Party's support in any such Publication, in accordance with academic standards and customs.

## 25. PUBLICITY

- 25.1. Any publicity must be in accordance with the Trust's communications policy, a copy of which shall be provided by the Trust to DeepMind, as updated or amended from time to time and communicated by the Trust to DeepMind.
- 25.2. Neither Party shall use the names or logos of the other Party in any publicity, advertising or news release without the prior written approval of the other Party.
- 25.3. Save as permitted pursuant to Clause 24 or as required by Applicable Law, neither Party will issue any previously unreleased information or statement to the press or public relating to the Services, this Agreement or the IPA without the prior written consent of the other Party.

## 26. WARRANTIES AND REPRESENTATIONS

- 26.1. Each Party warrants and represents that:
  - 26.1.1. it has full capacity and authority to enter into and to perform this Agreement;
  - 26.1.2. this Agreement is executed by a duly authorised representative of that Party; and
  - 26.1.3. so far as it is aware, no freedom-to-operate searches having been carried out, it is entitled to grant the licences as set out in this Agreement.

26.2. DeepMind warrants and represents that:

- 26.2.1. it shall perform and procure the performance of its obligations under this Agreement in compliance with all Applicable Law; and
- 26.2.2. it shall discharge its obligations under this Agreement with reasonable skill, care and diligence.

26.3. The Trust warrants and represents that:

- 26.3.1. it has, and will continue to have, all permissions, consents (including where required consents from Data Subjects), approvals, certificates, permits, licences, agreements and authorities (whether statutory, regulatory, contractual or otherwise) and rights in and to the Data and any other materials made available by the Trust to DeepMind to enable it to perform the Services; and
- 26.3.2. DeepMind's use of the Data as contemplated under this Agreement and the IPA shall not infringe the rights of any third party or cause DeepMind to be in breach of any Applicable Law.

## **27. LIMITATIONS ON LIABILITY**

- 27.1. The FHIR API, DeepMind Software, the Documentation, the Services, and/or any results or outputs of the Services provided by DeepMind shall not be regarded as providing any medical advice, professional medical or health care opinion, medical treatment or otherwise take the place of professional health care to any individual as would be offered by a professional health care provider or replacing the clinical judgment of a treating health care professional. In particular the DeepMind Software should only be used for the intended purpose (as defined in Clause 20) and in accordance with the instructions for use provided by DeepMind.
- 27.2. DeepMind does not represent, warrant or undertake that the FHIR API, the DeepMind Software, the Documentation, and/or any results or outputs of the Services will meet the health or medical requirements of any person. The Trust shall ensure that personnel are trained in the appropriate use of the DeepMind Software and/or any results or outputs of the Services used by Trust personnel. The Trust shall not authorise, allow or promote the use of the FHIR API, the DeepMind Software and/or any Developments otherwise than

as authorised and in accordance with any intended purpose, instructions for use, or training requirements provided by DeepMind.

- 27.3. DeepMind shall not be liable for the Trust's, its personnel's (including any End User's) or its agents' use of the FHIR API, the DeepMind Software, the Documentation, and/or any results or outputs of the Services as a result of or in connection with the provision of any medical treatment or advice provided by the Trust using or based on the same. Accordingly, the Trust shall indemnify and keep DeepMind indemnified in respect of any losses, liabilities, fines, charges, damages, actions, costs and expenses (including legal expenses actually incurred) and costs of investigation, litigation, settlement, judgment, interest and penalties that are suffered or incurred by DeepMind and/or its Affiliates as a result of or in connection with any third party claim brought against DeepMind and/or its Affiliates arising out of, as a result of, or in connection with the Trust's, its personnel's (including any End User's) or its agents' use of the FHIR API, the DeepMind Software, the Documentation, and/or any results or outputs of the Services for the provision of any medical treatment or advice provided by the Trust using or based on the same.
- 27.4. Subject to Clause 27.6, neither Party will have any liability, whether based on a claim in contract, tort (including negligence), breach of statutory duty or otherwise arising out of, in relation to, or in connection with, this Agreement and/or the IPA for any (i) loss (whether direct or indirect) of profits, goodwill, or further business, or any loss (whether direct or indirect) of anticipated savings, wasted expenditure, or any loss of or damage to goodwill or reputation; or (ii) any loss (whether direct or indirect) under or in relation to any other contract with a third party; (iii) any loss or corruption of data; or (iv) any special, incidental, indirect or consequential losses, in each case whether or not foreseeable or contemplated by the Parties as at the Effective Date.
- 27.5. Subject to Clause 27.6, each Party's total aggregate liability, whether based on an action or claim in contract, tort (including negligence), breach of statutory duty or otherwise arising out of, or in relation to, this Agreement and/or the IPA will be limited to GBP £5,000,000.
- 27.6. Nothing in this Agreement will exclude or limit either Party's liability:
- 27.6.1. for death or personal injury resulting from its (or its agents') negligence;
- 27.6.2. for fraud or fraudulent misrepresentations;

- 27.6.3. under the indemnity set out in Clause 27.3; or
- 27.6.4. for matters for which liability cannot be excluded or limited as a matter of law.
- 27.7. Nothing in this Clause 27 shall restrict or limit either party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.
- 27.8. The provisions of this Clause 27 shall survive the termination or expiration of this Agreement.

## 28. INSURANCE

- 28.1. DeepMind will maintain, at its expense, insurance (which may be by programs of self-insurance) with the following minimum limits:
  - 28.1.1. Commercial General Liability insurance, including worldwide products liability, completed operations coverage, and contractual liability coverage) on an occurrence basis for bodily injury, death, "broad form" property damage, and personal injury, with coverage limits of not less than GBP £1,000,000 per occurrence;
  - 28.1.2. Workers Compensation insurance as required by law, including employer's liability coverage for injury, disease and death, with coverage limits of not less than GBP £1,000,000 per accident and employee;
  - 28.1.3. if DeepMind's provision of services includes consultative, design, or development services, then DeepMind will additionally maintain professional liability insurance, for limits of not less than GBP £1,000,000 per claim; and
  - 28.1.4. Umbrella (Excess) Liability insurance on an occurrence basis, for limits of not less than GBP £1,000,000 per occurrence. As an alternative to maintaining Umbrella (Excess) Liability insurance, each Party can meet this requirement by maintaining GBP £2,000,000 of Commercial General Liability insurance.
- 28.2. The Trust will maintain at its own expense membership of the indemnity schemes run by the National Health Services Litigation Authority, specifically

the Clinical Negligence Scheme for Trusts (CNST) and the Liability to Third Parties Scheme (LTPS).

- 28.3. The foregoing coverage limits will not lower the coverage limits of either Party's policies, and will not affect or limit either Party's obligations or liability under this Agreement. All of a Party's activities under this Agreement will be at that Party's own risk, and that Party's employees and agents will not be entitled to any benefits under the policies of insurance maintained by the other Party.
- 28.4. Each Party is solely responsible for ensuring that its subcontractors maintain insurance coverage adequate to ensure that Party can meet its requirements and obligations under the Agreement.
- 28.5. Each Party will maintain insurance coverage (in the case of DeepMind) or membership of the indemnity schemes (in the case of the Trust) at its expense for the term of the Agreement, and will provide the other Party (or the other Party's third party vendor) documentation evidencing the required coverage.

## 29. TERMINATION

- 29.1. Either Party may terminate this Agreement for convenience immediately on providing at least twelve (12) months' written notice to the other Party. Termination by either Party may be in whole or in part save that the Trust may not terminate the Services in part where the effect of such partial termination would be that the Trust would not receive Streams: Mobile Platform, Streams: Task Management and the Support Services.
- 29.2. Either the Trust or DeepMind may terminate this Agreement immediately by written notice to the other if the performance of its obligations under this Agreement is contrary to or prohibited by an Applicable Law or by an order of a court of competent jurisdiction or regulatory authority to which the terminating Party is subject.
- 29.3. Either Party may terminate this Agreement in accordance with the provisions of Clause 32.
- 29.4. A Party shall be entitled to terminate this Agreement with immediate effect by giving the other Party immediate written notice of termination if:



- 29.4.1. the other Party commits a material breach of this Agreement or the IPA, and, if the breach is capable of remedy, fails to remedy the breach within sixty (60) days of receiving notice in writing to do so;
  - 29.4.2. an order is made or a resolution passed for the winding up of the other Party (other than for the purpose of a solvent scheme of reconstruction or amalgamation);
  - 29.4.3. an administration, administrative receiver or receiver is appointed in respect of a material part of the other Party's assets or business;
  - 29.4.4. as a consequence of financial difficulties the other Party makes any voluntary arrangement with its creditors;
  - 29.4.5. save for any Trust merger or acquisition with another healthcare organisation, the other Party ceases to continue its business or relevant activities or ceases to exist;
  - 29.4.6. the other Party becomes unable to pay its debts as and when they fall due; or
  - 29.4.7. as a consequence of debt and/or maladministration, the other Party takes or suffers any similar or analogous action to those listed in Clauses 29.4.2 to 29.4.6 above.
- 29.5. For the purposes of Clause 29.4.1 above, any breach of a Party's obligations under the IPA or any breach of the warranties set out in Clause 26 shall be deemed to be a material breach of this Agreement except where any breach is attributable to a decision of a Regulatory Body and the Parties have taken reasonable steps to address such decision in accordance with Clause 29.6.
- 29.6. In the event of any decision of a Regulatory Body which is expressly made in connection with this Agreement and/or the IPA and materially affects either Party's performance of any obligation under this Agreement and/or the IPA, the issue shall be referred to the Project Governance Board as soon as reasonably practicable. The Parties, through the Project Governance Board, shall co-operate in good faith to address and agree in writing the steps to be taken by each Party to resolve the issues, within ninety (90) Working Days of the parties becoming aware of such decision or such other period as agreed in writing between the Parties.

29.7. At the end of the period described in Clause 29.6 above, if the Parties have failed to reach agreement on the steps to be taken by each Party to resolve the issues, then:

29.7.1. DeepMind may terminate this Agreement on providing the Trust at least 5 (five) Working Days' written notice; or

29.7.2. the Trust may terminate this Agreement on providing DeepMind at least 5 (five) Working Days' written notice; and

29.7.3. if neither Party exercises its termination rights under Clause 29.7.1 (in the case of DeepMind) or Clause 29.7.2 (in the case of the Trust), this Agreement shall automatically terminate.

29.8. On termination (in whole and not in part) or expiration of this Agreement:

29.8.1. if so agreed between the Parties in writing, subject to Clause 29.8.2, DeepMind will provide the Exit Migration Services to the Trust, from the date of termination or expiry (or if earlier from the date of any notice of termination) and for up to ninety (90) days following the effective date of termination or expiration of the Agreement. From the notice of termination, and in the event it is agreed that DeepMind shall provide the Exit Migration Services, the Parties agree to develop a written exit plan which shall include detail on the Exit Migration Services including but not limited to the standard of data transfer. Such exit plan shall be agreed through the Project Governance Board and discussions on this shall, if applicable, commence no later than ninety (90) days from the date of termination. Acts or omissions by DeepMind under this Clause shall be subject to the provisions of the Agreement;

29.8.2. the Trust shall and shall procure that any Replacement Supplier shall promptly provide all such information and assistance as DeepMind may require in order to enable it to provide Exit Migration Services and should it not do so, DeepMind shall be relieved of its obligations in relation to the Exit Migration Services;

29.8.3. unless agreed otherwise between the Parties (for example, in relation to the provision of Exit Migration Services), DeepMind will act under the explicit instructions of the Trust promptly to delete or destroy (or, at the Trust's written request, return to the Trust in a structured, readable

format) all Data for which the Trust is the Data Controller in DeepMind's possession or under its control as at the effective date of termination or expiration, to the extent technically feasible;

- 29.8.4. save to the extent provided otherwise in Clause 29.8.6, the Trust will promptly delete or destroy (or, at DeepMind's written request, return to DeepMind) all DeepMind's Confidential Information in its possession or under its control as at the effective date of termination or expiration, to the extent technically feasible;
- 29.8.5. subject to Clause 29.8.6, any licence granted by DeepMind to the Trust (including without limitation the licences to use the DeepMind Software, Documentation and/or the FHIR API) shall immediately terminate if there is no prior agreement otherwise, provided that (i) such licence may continue if and to the extent that termination of such licence would compromise patient care, for a period of no more than ninety (90) days from the date of termination or expiry of this Agreement, on condition that the Trust shall use its best endeavours to put in place alternative arrangements and subject to payment of reasonable compensation to DeepMind for the continuation of such licence; and
- 29.8.6. in the event of valid termination of this Agreement by DeepMind pursuant to Clause 29.1 or Clause 29.7.1 or by the Trust pursuant to Clause 29.4 then: (i) the licence for the Trust to use the FHIR API granted pursuant to Clause 17.1 shall terminate.
- 29.9. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties, including the right to claim damages, in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
- 29.10. Subject to the express provisions of this Clause 29, any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

### **30. ANTI-BRIBERY AND CORRUPTION**

- 30.1. Each Party warrants and represents that it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 Bribery Act

2010. DeepMind further warrants and represents that it has not committed any offence under the Bribery Act 2010 or offered, given or agreed to give any officer or employee of the Trust any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Trust or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Trust.

### 31. DISPUTE RESOLUTION PROCEDURE

- 31.1. The Parties shall attempt, in good faith, to resolve any Dispute promptly by negotiation which shall be conducted as follows:
  - 31.1.1. if a Dispute arises in the opinion of either Party, the Party in question may give written notice to the other Party that the Dispute has arisen ("**Dispute Notice**");
  - 31.1.2. the Dispute shall be referred, by the referring Party, first to the Services Managers of each of the Parties for resolution; and
  - 31.1.3. if the Dispute cannot be resolved by the Services Managers of the Parties within fourteen (14) days after the Dispute has been referred to them, either Party may refer the Dispute to a senior executive of the Trust and a senior executive of DeepMind for resolution.
- 31.2. If the Parties' senior executives are unable, or fail, to resolve the Dispute within fourteen (14) days following referral of the Dispute to them, the Parties may attempt to resolve the Dispute by mediation in accordance with Clause 31.3.
- 31.3. If, within thirty (30) days of the Dispute Notice, the Parties have failed to agree on a resolution, either Party may refer any Dispute for mediation pursuant to this Clause 31.3, but neither shall be a condition precedent to the commencement of any court proceedings, and either Party may issue and commence court proceedings prior to or contemporaneously with the commencement of mediation. The following provisions shall apply to any such reference to mediation:
  - 31.3.1. the reference shall be a reference under the Model Mediation Procedure ("**MMP**") of the Centre of Dispute Resolution ("**CEDR**") for the time being in force;

- 31.3.2. both Parties shall, immediately on such referral, co-operate fully, promptly and in good faith with CEDR and the mediator and shall do all such acts and sign all such documents as CEDR or the mediator may reasonably require to give effect to such mediation, including an agreement in, or substantially in, the form of CEDR's Model Mediation Agreement for the time being in force; and
- 31.3.3. to the extent not provided for by such agreement of the MMP:
- (a) the mediation shall commence by either Party serving on the other written notice setting out, in summary form, the issues in dispute and calling on that other Party to agree the appointment of a mediator; and
  - (b) the mediation shall be conducted by a sole mediator (which shall not exclude the presence of a pupil mediator) agreed between the Parties or, in default of agreement, appointed by CEDR.
- 31.4. Notwithstanding Clause 31.3, if and to the extent that the Parties do not resolve any Dispute or any issue in the course of any mediation, either Party may commence or continue court proceedings in respect of such unresolved Dispute or issue.
- 31.5. Nothing in this Clause 31 shall prevent either Party from instigating legal proceedings where an order for an injunction, disclosure or legal precedent is required.

## **32. FORCE MAJEURE**

- 32.1. Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network or the internet, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for six (6) months, the Party not affected may

terminate this agreement by giving thirty (30) days' written notice to the other Party.

### 33. GENERAL PROVISIONS

- 33.1. Any notices under this Agreement shall be in writing, signed by the relevant Party to this Agreement and delivered personally, by courier or by recorded post to the addresses specified below:

33.1.1. DeepMind: 5 New Street Square, London, EC4A 3TW

33.1.2. The Trust: Higher Kingston, Yeovil BA21 4AT

- 33.2. Neither Party shall assign, transfer, subcontract, or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).
- 33.3. A person who is not a Party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 33.4. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.
- 33.5. This Agreement (including the Schedules) constitutes the entire agreement between the Parties in connection with its subject matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations (other than fraudulent misrepresentations but including negligent misrepresentations) and understandings between them, (in each case whether written or oral), relating to its subject matter. Each Party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently but excluding any fraudulent misrepresentation) that is not set out in this Agreement.
- 33.6. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

- 33.7. No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.
- 33.8. Nothing in this Agreement is intended to, or shall be deemed to, establish any legal partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 33.9. This Agreement and any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 33.10. Each Party irrevocably agrees that the courts of England and Wales shall, subject to Clause 31, have exclusive jurisdiction to settle any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

## SCHEDULE 1 INFORMATION PROCESSING AGREEMENT

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this IPA, capitalised terms not defined in this IPA shall have the meaning given to them in the Services Agreement and, unless the context indicates otherwise:

**"Active Patients":** means (1) Patients with open elective pathways; (2) Patients with emergency admission pathways with unscheduled pending activity; (3) Patients with emergency admissions within 6 months prior to the point of transfer (i.e. before Streams go-live);

**"Authorisations":** means any permissions, consents (including without limitation consents from Data Subjects), approvals, certificates, permits, licences, agreements and authorities (whether statutory, regulatory, contractual or otherwise);

**"Data":** has the meaning given in the Data Protection Legislation;

**"Data Controller or Controller":** means Yeovil District Hospital NHS Foundation Trust, as per the definition in Data Protection Legislation;

**"Data Processor or Processor":** means DeepMind Technologies Limited, as per the definition in Data Protection Legislation;

**"Data Protection Legislation":** means the Data Protection Act 1998 as amended, extended, re-enacted and/or any replacement legislation therefor from time to time;

**"Data Subject":** has the meaning given to it in the Data Protection Legislation;

**"ICO":** means the Information Commissioner's Office or any successor thereto from time to time;

**"Information Governance Board":** means the governance board to be established in accordance with section 6 of this IPA;

**"IPA":** means this Information Processing Agreement, comprising its clauses and any appendices that may be attached to it;

**"N3 Network":** means the New National Network (or any replacement network), being the broadband network for England's



National Health Service ("NHS");

**"Patient":** means an individual who is receiving or has received medical treatment by the Data Controller;

**"Personal Data":** means personal data (as defined under the Data Protection Legislation) which forms part of the Data;

**"Processing":** has the meaning given to it in the Data Protection Legislation;

**"Project Governance Board":** means the governance board to be established in accordance with Clause 12 of the Services Agreement;

**"Security Incident":** has the meaning given to it in section 4.10;

**"Sensitive Personal Data":** means sensitive personal data or special categories of personal data (as defined under the Data Protection Legislation) which forms part of the Data;

**"Services":** means the services to be provided by the Processor pursuant to the Services Agreement, as defined in the Services Agreement;

**"Services Agreement":** means the Services Agreement between the Parties (to which this IPA is attached); and

**"Working Day":** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

## **2. COMMENCEMENT AND DURATION**

- 2.1 This IPA shall commence on the Effective Date of the Services Agreement and shall continue in force unless and until terminated in accordance with the Services Agreement.

## **3. ROLE OF THE PARTIES**

- 3.1 The Controller has entered into the Services Agreement with the Processor under which the Processor will provide certain Services to the Controller. In order to provide the Services, the Processor will need to process Personal Data, including patient data, on behalf of, and in accordance with the instructions of, the Controller.

- 3.2 This IPA exists to govern the relationship between the Parties during the Term of the Services Agreement, to ensure that there are guarantees in place to protect data processed under this IPA and to ensure that such processing meets the requirements of the 7th Data Protection Principle contained in the Data Protection Act 1998, and any replacement legislation in force from time to time.
- 3.3 The Trust is seeking to deliver an Integrated Electronic Patient Record (EPR). The Services will assist the Trust in meeting that aim. The parties acknowledge and agree that in relation to the Data processed under the Services Agreement the Processor shall only process Data on behalf of the Controller in relation to the delivery of EPR via a mobile application. the Data processed by the Processor in order to provide the Services will include Personal Data, some of which will be Sensitive Personal Data.
- 3.4 In respect of any Personal Data processed by the Processor on behalf of the Controller in performing the Services, the Parties agree that the Controller shall be the "data controller" and the Processor shall be the "data processor" as such terms are defined in the Data Protection Legislation. Accordingly, under the Service Agreement and this IPA, the Controller determines the purposes for which and the manner in which the Data is processed; the Processor is only permitted to process the Data in accordance with the Controller's instructions.
- 3.5 The Controller and Processor each agree to comply with those provisions of the Data Protection Legislation which are applicable to their role as a data controller or data processor, respectively, in relation to the Personal Data.
- 3.6 The Controller has determined that the legal basis for the processing of the Data is in the delivery of direct care to patients.
- 3.7 The Parties have agreed the data flow map attached as Appendix 3, which sets out how the Data will be processed by the Controller and the Processor in relation to the Services.

#### **4. DATA PROCESSING**

- 4.1 The Processor agrees to only process the Data in accordance with the terms and conditions set out in this IPA and, subject to the overriding requirements of Applicable law, undertakes to:
- (a) only process the Personal Data for and on behalf of the Controller, strictly in accordance with the written instructions of the Controller, unless required to do otherwise by Applicable law, in which case the Processor shall inform the Controller of that legal requirement before processing the Personal Data otherwise than in accordance with the Controller's instructions (unless that law prohibits such information on important grounds of public interest);
  - (b) disclose the Personal Data only to its personnel and subcontractors who have a need to know such information in order to perform the Services under the

Services Agreement, and who have undergone appropriate information governance training and have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

- (c) subject to 4.1 (j), process the Personal Data only for the purposes of providing the Services under the Services Agreement and not otherwise extract, re-utilise, use, exploit, re-distribute, re-disseminate, copy or store the data;
- (d) implement and maintain appropriate technical and organisational security measures to safeguard the Personal Data from unauthorised or unlawful processing or accidental loss, damage or destruction, as more fully set out in Appendix 2 and the Services Agreement;
- (e) not engage any sub-processors without the Controller's prior written consent and, in the event of sub-processing, ensure the same data protection obligations as are imposed on the Processor under this IPA are imposed on the sub-processor by way of a written contract with the Processor. The Processor shall remain fully liable to the Controller for the acts or omissions of any sub-processor;
- (f) taking into account the nature of the processing and the information available to the Processor, assist the Controller (as reasonably requested by the Controller) in ensuring compliance with its obligations under the Data Protection Legislation in relation to security, data breach notification, data protection impact assessments and prior consultation;
- (g) not transfer the Personal Data outside of England without the prior written consent of the Controller;
- (h) at the choice of the Controller, delete or return all Personal Data upon termination of this IPA, and delete any existing copies unless Applicable law requires storage of the Personal Data; and
- (i) make available to the Controller such information as the Controller may reasonably require to demonstrate compliance by the Processor with its obligations under this IPA, and allow for and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller, subject to: (i) any such audit being conducted during business hours and on reasonable advance notice by the Controller; (ii) the Controller and any third party auditor taking reasonable steps to minimise any disruption to the Processor's business; and (iii) the Controller and any third party auditor complying with any reasonable requirements imposed by the Processor to protect the safety and security of its premises and systems, and the confidentiality of any Processor or third party confidential information and/or personal data processed by the Processor on behalf of any third party.
- (j) not Process the Personal Data for the purpose of development of software.

- 4.2 The Processor shall not disclose the Personal Data to any third party without the express written consent of the Controller. Where the Controller instructs the Processor to make the Personal Data available to a third party (whether through an application programmable interface or otherwise), the Controller shall ensure that it has a lawful basis for such disclosure and, where required by the Data Protection Legislation, has provided notice to the relevant Data Subjects.
- 4.3 The Processor shall promptly amend or delete the Data, or restrict the processing of any Data, if requested to do so in writing by the Controller.
- 4.4 The Processor shall not combine or link the Data with any other data unless instructed to do so in writing by the Controller.
- 4.5 Where the Controller requires the Processor to comply with any Controller or ICO policies, guidance and procedures after the Effective Date that are not otherwise specified herein, the Controller shall notify the Processor in advance, providing it with a copy of the relevant policy, guidance or procedure, and providing the Processor a reasonable time to review the same. Where either Party considers the new policy, guidance or procedure will require an adjustment to the information governance processes established by the Parties hereunder, the matter shall be submitted to the Information Governance Board for consideration.
- 4.6 The Processor shall designate an individual as its custodian of the Data, who will be responsible for overseeing the Processor's compliance with the terms of this IPA as they pertain to the Data and who shall act as the Controller's single point of contact in relation to any concerns the Controller may have regarding the Processor's compliance with the same. The Processor will identify its custodian to the Controller and will notify the Controller in the event of any change to that role.
- 4.7 The Processor shall ensure that all relevant personnel involved in the processing of the Data are aware of the legal obligations imposed on the Processor under this IPA with respect to the Data and their respective responsibilities in discharging their duties.
- 4.8 The Processor shall ensure that appropriate training is provided to all relevant personnel in relation to information governance.
- 4.9 The Processor will permit Controller employees or other personnel authorised by the Controller to access the Data via the Processor's systems, such role-based access will be controlled by the Controller's Lightweight Directory Access Protocol ("LDAP") system. It remains the responsibility of the Controller to enable user accounts on the LDAP system only for users who have a legal right to access the Data.
- 4.10 In the event that the Processor becomes aware of any breach of security or other significant incident that affects the confidentiality, accuracy or integrity of the Data (a "**Security Incident**"), the Processor shall inform the Controller in writing and without

undue delay (and in accordance with any information governance process agreed pursuant to section 6 below), and shall promptly implement corrective action to seek to mitigate the impact of the Security Incident.

- 4.11 Taking into account the nature of the processing, the Processor shall assist the Controller by putting in place and maintaining appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Controller's obligations to respond to requests from Data Subjects purporting to exercise Data Subjects' rights. The Processor will notify the Controller within five (5) Working Days of all communications the Processor receives from any Data Subject seeking to exercise his/her rights in relation to the Personal Data.
- 4.12 Under no circumstances shall the Processor, without the prior written consent of the Controller, sell or attempt to sell any Data to any third party.

## **5. OBLIGATIONS OF THE CONTROLLER**

### **5.1 The Controller shall:**

- (a) at all times comply with the Data Protection Legislation and any information governance requirements, and, in particular, ensure that its instructions and disclosures of the Data to the Processor are lawful and that it has at all times a lawful basis to provide the Data to the Processor and to instruct the Processor to process such Data in accordance with this IPA;
- (b) not disclose any Personal Data to the Processor save where this is lawful and in a form which is lawful; and
- (c) ensure that, where required under the Data Protection Legislation or for information governance reasons, appropriate information as to how the Data is to be used under the Services Agreement is made available to the Data Subjects.

5.2 The Controller warrants and represents that it has assessed the technical and organisational security measures which the Processor has in place to comply with its obligations under section 4.1(d), and considers these appropriate to protect the Data (taking into account the state of the art, and the nature, scope, context and purposes of the processing, as well as the risks involved).

5.3 The Controller will provide the Processor with such authorisation and authentication protocols as may be agreed between the parties.

5.4 The Controller remains responsible for any unauthorized access to Personal Data through the use of valid Controller LDAP credentials.

### **5.5 REGULATORY OVERSIGHT**

5.5.1 Each Party will co-operate with, and provide reasonable assistance to, the other in the event of any enquiry or investigation by the ICO or any other Regulatory Body in relation to processing of the Data pursuant to this IPA.

5.5.2 Each Party will inform the other within two (2) Working Days of receipt of any communication from the ICO or other Regulatory Body in relation to the Services, and will provide the other Party with a reasonable opportunity to comment on and contribute to any response, prior to its being sent.

## **6. INFORMATION GOVERNANCE AND REPORTS**

6.1 In recognition of the seriousness with which the Parties view their respective responsibilities in respect of the Data, the Parties shall establish an information governance board consisting of two (2) individuals, comprising one (1) representative of each Party (the "Information Governance Board"). The initial representatives of the Parties shall be notified by each Party to the other within ten (10) days of the Effective Date.

6.2 Each Party may from time to time change its representative on the Information Governance Board by notifying the other Party with the name of its new representative.

6.3 The Information Governance Board will co-operate to establish and implement the following information governance processes in relation to the Services, and in doing so shall bear in mind the Caldicott Principles:

- (a) monthly audit reports to contain information on some or all of the following: spot checks (assets, code, physical storage, policy adherence), incident simulation, auditing logs and pager testing;
- (b) new starter training in relation to NHS Digital certification and internal policy training;
- (c) data and infrastructure access approval including submission of access tickets to the Information Governance Board as required and the requesting of review and approval;
- (d) review of access requests and access control lists, new processes & information assets, security planning/proposals, and policy updates by the Information Governance Board;
- (e) risk management processes for agreed incident management procedures;
- (f) procedures for auditing of access to Data; and
- (g) procedures for reviewing the information governance and data processing arrangements under this IPA on a regular basis from time to time.

- 6.4 The Information Governance Board shall meet once every month and as further may be required.
- 6.5 All material decisions of the Information Governance Board shall be recorded in writing.
- 6.6 Each Party shall be entitled to convene a meeting of the Information Governance Board on giving not less than fourteen (14) days' notice to the other Party.
- 6.7 The quorum for a meeting of the Information Governance Board shall be two (2) individuals, one (1) representing each Party. No valid meeting of the Information Governance Board may be held unless a quorum is present. All decisions of the Information Governance Board must be unanimous.
- 6.8 The Information Governance Board shall consult with the Project Governance Board in relation to approval of Service Schedules and any changes to any Service Schedule which are relevant to this IPA.
- 6.9 For the avoidance of doubt, the Information Governance Board shall not have the power to make any changes to the provisions of this IPA, but may recommend to the Parties changes to this IPA to be made in accordance with Clause 13 of the Services Agreement.

## **7. INDEMNITY**

- 7.1 The Processor shall indemnify and keep the Controller indemnified in respect of any losses, liabilities, fines, charges, damages, actions, costs and expenses (including reasonable legal expenses actually incurred) and costs of investigation, litigation, settlement, judgment, interest and penalties that are suffered or incurred by the Controller as a direct result of a breach of this IPA by the Processor, including without limitation in connection with any claim or proceeding brought against the Controller by a Data Subject or any competent regulatory agency, provided that this indemnity shall not apply if and to the extent that any such losses, liabilities, fines, charges, damages, actions, costs and expenses (including reasonable legal expenses actually incurred) and/or costs of investigation, litigation, settlement, judgment, interest and penalties that are suffered or incurred by the Controller arise as a result of or were exacerbated by any breach by the Controller of its obligations under the Data Protection Legislation and/or under this IPA and/or as a result of the Processor processing any Data in accordance with the Controller's written instructions.
- 7.2 The Controller shall indemnify and keep the Processor indemnified in respect of any losses, liabilities, fines, charges, damages, actions, costs and expenses (including reasonable legal expenses actually incurred) and costs of investigation, litigation, settlement, judgment, interest and penalties that are suffered or incurred by the Processor as a direct result of a breach by the Controller of this IPA, including without limitation in connection with any claim or proceeding brought against the

Processor by a Data Subject or any competent regulatory agency, provided that this indemnity shall not apply if and to the extent that any such losses, liabilities, fines, charges, damages, actions, costs and expenses (including reasonable legal expenses actually incurred) and/or costs of investigation, litigation, settlement, judgment, interest and penalties that are suffered or incurred by the Processor arise as a result of or were exacerbated by any breach by the Processor of its obligations under this IPA.

- 7.3 Each of the indemnities in sections 7.1 and 7.2 above respectively is subject to: (i) the indemnified Party promptly notifying the indemnifying Party of any third party claim or regulatory proceeding in respect of which indemnification is sought; (ii) the indemnified Party giving the indemnifying Party the right to defend any such third party claim and settle such third party claim with the prior written consent of the indemnified Party (such consent not to be unreasonably withheld or delayed), and to participate in the defence of any enforcement action by the ICO or other regulatory proceeding by any other regulatory body, in each case with the indemnified Party providing assistance and information in relation to such defence as reasonably requested; and (iii) the indemnified Party not making any statement or taking any action or refraining from taking any action that is or may be prejudicial to the defence of such third party claim, or regulatory proceedings. The indemnified Party shall take all reasonable steps to mitigate any loss and/or damage.

## **8. LIABILITY**

- 8.1 The Parties' liability, whether based on a claim in contract, tort (including negligence), breach of statutory duty or otherwise arising out of, in relation to, or in connection with this IPA and/or the Services Agreement, including under the indemnities set out in section 7 above, shall be limited and excluded in accordance with and subject to the terms of Clause 27 of the Services Agreement.

## **9. TERMINATION**

- 9.1 This IPA shall automatically terminate upon termination or expiry for any reason of the Services Agreement. Termination of this IPA shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the IPA which existed at or before the date of termination or expiry. Any provision of this IPA that expressly or by implication is intended to come into or continue in force on or after termination of this IPA shall remain in full force and effect.

## **10. DISPUTE RESOLUTION**

- 10.1 The Parties shall attempt, in good faith, to resolve any dispute arising out of, in connection with or in relation to this IPA promptly in accordance and on and subject to the terms of with Clause 31 of the Services Agreement, save that the Parties' representatives on the Information Governance Board shall take the place of the Parties' Services Managers.



**11. NOTICES**

- 11.1 Any notices under this IPA shall be in writing, signed by the relevant Party to this IPA and delivered personally, by courier or by recorded post to the addresses specified below:
- (a) The Processor: 5 New Street Square, London, EC4A 3TW
  - (b) The Controller: Higher Kingston, Yeovil BA21 4AT.

## APPENDIX 1 TO IPA: Data

1. For the purposes of this Agreement, Data relating to Patients which is provided by the Controller to the Processor is strictly limited to Active Patients. Data relating to Patients who are not Active Patients shall not be transferred to the Processor by the Controller.
2. The Controller will provide the following Data on the dates and in the manner specified in the Project Initiation Document:
  - (a) HL7 feeds: and live data via HL7 MLLP (Minimal Lower Layer Protocol);
  - (b) HL7 message types (e.g. ADT, ORU, ORM) and sources required on the feed will be determined by the Project Initiation Document of resources to be provided by the API in the Project Project Initiation Document;
  - (c) Text files exported from existing hospital systems defining fixed (non-patient) resources (e.g. Consultants, General Practitioners, Beds); and
  - (d) FHIR messages as developed through the Controller or from existing hospital systems.
3. The data sets may be varied in accordance with the Change Control Procedure set out in the Services Agreement and will be subject to the Trusts PIA data and any additional Privacy Impact Assessment

## APPENDIX 2 TO IPA: Security Measures

The Processor shall implement and maintain adequate security measures to standards no less than those imposed on the Controller under the seventh data protection principle set out in the DPA whilst it continues to process the Data on behalf of the Controller, such measures to include but are not limited to:

- (i) **Data Centre** - Data is stored at an ISO27001 accredited colocation facility.
- (ii) **Encryption** - Data will be delivered to the Processor over an encrypted channel. Where required by the Controller, connections will be limited to the Controller's N3 Network and/or encapsulated, for example in an encrypted Internet Protocol Security tunnel. The API will be accessible from the Controller via an encrypted HTTPS connection, secured via an authentication and authorisation system linked to the Controller, such as its LDAP servers. Data is secured on disk with AES-256 encryption and in-transit at the colocation facility with TLS v1.2.
- (iii) **Backup** - The Processor will use an encrypted file-based backup with full and incremental backups daily.
- (iv) **Resilience** - The Processor will use reasonable measures to seek to ensure that there is sufficient additional server and other hardware capacity to continue operations of the systems. Where technically feasible, failover mechanisms will be in place to ensure that in the event of hardware or software failure the Services will transition to other available systems.
- (v) **Disaster Recovery** - The Processor has undertaken and continuously undertakes disaster recovery planning exercises. The Processor and the Controller will agree a formal service level agreement to cover any deployment with critical clinical dependencies on or prior to the relevant date in the Roadmap.
- (vi) **Incident Notification** - The Processor will promptly inform the Controller of any Security Incident in accordance with section 4.10 of this IPA.
- (vii) **NHS Information Governance Requirements:** The Processor shall maintain NHS Information Governance Toolkit level 2 or above accreditation, or such equivalent measures as may from time to time be specified.

**APPENDIX 3 TO IPA: Data Flow Map**

## SCHEDULE 2 SERVICE CHARGES

Service	Price	Payment Plan
FHIR API		
Data Management		
DeepMind Software		
DeepMind Support Services for DeepMind Software, in accordance with Schedule 6 (DeepMind Software Maintenance Services)		
Audit		

- 1.1 DeepMind shall provide to the Trust such information as the Trust may reasonably request from time to time in order to verify the costs incurred by DeepMind in relation to the Support Services described above.

- 1.2 DeepMind shall provide the Trust with access to data relating to the volume of Support Services provided, and the associated costs incurred, by DeepMind in providing the Support Services for the first two (2) months of the Initial Term, for the purposes of enabling the Trust to better understand and, if necessary, for the parties seek to adjust the volume of required Support Services.
- 1.3 The Project Governance Board shall monitor and review the charges for the Support Services on an ongoing basis, with a view to mitigating the costs for both Parties, in accordance with Clause 12.
- 1.4

**Confidential**

### **SCHEDULE 3 SUB-CONTRACTORS**

**Confidential**

**SCHEDULE 4 DEEPMIND SOFTWARE SERVICES**



**Confidential**

**Confidential**

## SCHEDULE 5 PERFORMANCE SCHEDULE

The Parties have set out in this Schedule 5 a description of the what the Trust requires by way of the performance outcomes from the DeepMind Software Services.

### 1. Performance of Services

#### Measurement of performance

#### KPIs

KPI	Description	Calculation	Value
API Availability		<p>"Availability" will mean and be calculated as follows;</p> $\frac{\text{Time Available}}{\text{Time in Measurement Period}} \times 100$ <p>The value being expressed as a percentage</p> <p>Where:</p> <p>"Time Available": means Time in Measurement Period less any time during which the Services are not accessible in a Measurement Period (other than planned downtime); and</p> <p>"Time in Measurement Period": means the total number of hours in a Measurement Period.</p> <p>(By way of example, if the measurement period were the months of May, June and July, the Time in Measurement Period would be <math>92 \times 24 = 2,208</math> hours. If the time available were 2,200 hours then the Availability would be calculated as 99.64%</p>	

		(2,200/2,208)*100)	
		Planned downtime will be agreed by the Parties (such agreement not to be unreasonably withheld or delayed) having regard always to the Trust's ongoing obligation to provide clinical services.	
API response	Call	Not applicable.	<p>If the Trust thinks the FHIR API is not reaching the API Call response times it shall notify DeepMind and the API Call response times will be measured by the Trust with the assistance of DeepMind, by a methodology utilising a directly connected service to the API server which measures the direct response times of the FHIR API and repeat the same test over the Trust's network. If there are variations between the results, the Trust with DeepMind's assistance shall investigate to determine whether such variations are attributable to the Trust's network or the FHIR API.</p> <p>Planned downtime will be agreed by the Parties (such agreement not to be unreasonably withheld or delayed) having regard always to the Trust's ongoing obligation to provide clinical services.</p>

### Service Level Agreements

SLA	Description	Value
Incident Occurrence and Frequency Targets	Number of second-line incidents raised per calendar month	<10 Incident Occurrences per calendar month
Change Management	Number of changes reversed out once applied in live service	Target 0 Maximum Occurrence 2% of

		applied changes
Incident resolution targets	The resolution of incidents within the target times set in the table below. The definitions of the incident categories are set out in the "Incident Categories" table.	See table below

Priority Level	Service Level Target Category	Service Level Target	Monthly Operational Service Level (ten (10) or more Incident Service Request ("SRs") unless specific)
P1			Or If <10 SRs, no more than one (1) SR exceed SLT
P2			
P3			
P4			

## 2. Incident Categories

Priority Level	SLT Category	Definition
P1	Immediate	1. An incident which, in the reasonable opinion of the Trust, is business critical affecting a business outcome, including but not limited to, full loss of Service or functionality to the Trust, regulatory or legal issue, affecting all end users of DeepMind Software within a department; and relating to the Services for all of the above and in each case for which no immediate bypass or alternative is available.  OR

	<p>2. An outage; complete operational impairment of production environment; major adverse impact on system Availability; Majority (greater than 50%) of concurrent end users of DeepMind Software, across all Hospitals and locations where end users of DeepMind Software operate from, are unable to process transactions or access data critical to their ability to conduct daily business; the Trust's downtime procedures have been implemented and end users of DeepMind Software have turned to agreed (paper) contingency procedures, and relating to the Services for all of the above and in each case for which no immediate bypass or alternative is available.</p> <p>OR</p> <p>3. A major patient care or major safety conditions exist.</p> <p>OR</p> <p>4. Loss of all DeepMind provided functionality – the inability to access all components of the live production service (total loss of service) for all end users of DeepMind Software.</p>
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P2	High	<p>1. Loss of a critical production service component with the inability to access components of the Service (total loss of component for one (1) or more Hospitals and locations where end users and DeepMind Software operate from). Issue prevents clinicians being able to make clinical decisions.</p> <p>OR</p> <p>2. A significant percentage (&gt;10% and &lt;50%) of concurrent End Users are unable to process transactions or access data critical to their ability to conduct daily business, and no immediate bypass or alternative is available.</p> <p>OR</p> <p>3. Partial outage. A component of DeepMind's System that is required to complete a critical workflow is non-functional for the majority of end users of DeepMind Software who use that component, and no immediate bypass or alternative is available.</p> <p>OR</p> <p>4. Issue causes an adverse major financial impact to the Trust;</p> <p>OR</p> <p>5. Issue causes adverse impact to the provision of patient care;</p> <p>OR</p> <p>6. DeepMind's system performance degradation in the Production Environment that severely impacts or is likely to severely impact the end users of DeepMind Software ability to input data.</p> <p>OR</p> <p>7. An interface, mapping table or connection required to complete a critical workflow is non-functional for more than one (1) End User AND no immediate bypass or alternative is available.</p>
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P3	Moderate	<p>1. A component, minor application or procedure is down, unusable or difficult to use. There is a moderate operational impact but no immediate adverse financial impact or adverse impact to patient care. One or more Hospitals and/or locations where end users of DeepMind Software operate from are impacted.</p> <p>2. end users of DeepMind Software generated issue that has an adverse impact upon patient or financial workflows.</p> <p>Service Requests that would be considered P1 or P2 but which have a workaround, alternative or bypass available will be assigned P3.</p>
P4	Minor	A component, procedure or personal application (not critical to the Trust) is unusable. Minimal adverse impact to business. Deferred maintenance is acceptable.

### 3. Failure to achieve Service Levels

#### Corrective actions

Where there are persistent breaches of service levels over three (3) weeks in any one (1) reporting period or four (4) weeks in any two (2) reporting periods, DeepMind may be asked by the Trust to prepare a service improvement plan to bring the Services back into compliance ("Service Improvement Plan"). The Service Improvement Plan will be managed by DeepMind and progress will be reported to the Trust via the Project Governance Board meetings.

If, in the reasonable opinion of the Trust, a Service Improvement Plan is not progressing towards completion at a satisfactory rate, the matter shall be referred to the Project Governance Board and if not resolved, then the Trust may elect to move to an escalation process as per Clause 31.



## **SCHEDULE 6 DEEPMIND SOFTWARE AND FHIR API SUPPORT AND MAINTENANCE SERVICES**

The Parties have set out in this Schedule 6 a description of the what the Trust requires from DeepMind Support Services once the Services are operational.

### **1. Service cover time**

The periods during which DeepMind provides the Support Services shall be:

1. The DeepMind Software and FHIR API will be made available 24 hours per day and 365 days per annum.
2. The support function will be provided 8AM to 6PM from Monday to Friday, excluding bank holidays.

### **2. Support Service**

The DeepMind Software and FHIR API must be supported with the following services:

1. Continuous monitoring of the DeepMind Software and FHIR API to ensure availability and capacity;
2. Tracking, recording and reporting failures and resolutions to identify opportunities to reduce failures;
3. Performance and throughput monitoring, reporting and management of the DeepMind Software and FHIR API;
4. Provide to the Project Governance Board bi-monthly activity reports to analyse service performance and agree remedial actions;
5. A testing service to ensure updates and new developments are, to the extent reasonably practicable, fully working and will have no significant adverse impact on either existing DeepMind Software or FHIR API functions;
6. A change management service to ensure agreed changes are applied in a safe and reversible manner ;
7. Identification and execution of remedial plans following investigation of incidents;
8. An Incident management service to ensure that End User identified incidents and DeepMind identified incidents are logged, investigated and managed to resolution and reported;

9. A Problem management service to ensure that End User identified problems and DeepMind identified problems are logged, investigated and managed to resolution and reported; and
10. Data quality and correction management service to monitor data quality and to ensure that where data requires update or amendment, such data is corrected and corrections recorded in accordance with an agreed process.

The Trust will provide DeepMind with all necessary contact details for the providers of third party systems ("third party providers") to enable DeepMind to resolve promptly any connectivity issues which may arise. Further, the Trust will inform the third party providers that DeepMind is authorised to contact the third party providers and that the third party providers are authorised to deal with DeepMind.

### 3. **Security Services**

DeepMind will maintain security of the DeepMind Software and FHIR API provided by the Trust in accordance with good industry practice and will on reasonable notice provide access to relevant documentation by appropriate Trust personnel and auditors to ensure the Trust is satisfied with the design and operation of the security services.

### 4. **Monitoring / reporting**

The Project Governance Board meetings will include the following agenda items:

1. Minutes of previous meeting
2. Incident Record review for the previous month
3. Agree Milestone achievements
4. Review change requests and make recommendations for approval
5. KPI achievements for the previous month
6. Service Improvement Plan Review (if such a plan is in effect)
7. Data Quality and Correction
8. AOB

Minutes will be produced and circulated by DeepMind within one (1) week of the meeting.

### 5. **Documentation**

DeepMind will document all interface builds and testing artefacts in accordance with good industry practice and standards agreed with the Trust.

6. **Trust / Supplier contact and service reviews**

Help / support / service desk

DeepMind shall maintain a help desk and contact arrangements by telephone and email as part of the Support Services. To discharge this responsibility, DeepMind will consult with Trust's nominated personnel and the Trust ICT helpdesk to establish effective and streamlined processes for incident and problem management handling.

Problem / issue management

DeepMind shall classify all reported problems and incidents according to the P1 – P4 categories set out in Schedule 5 (Performance Schedule) and will report progress in accordance with the processes agreed. The Trust reserves the right to establish a crisis management team for P1 and P2 incidents and problems which the Parties agree are not progressing which will include representation from DeepMind.

Service reviews

DeepMind shall bring the incident, issue and problem logs to the Project Governance Board meetings.

DeepMind shall calculate the KPIs and SLAs achievements for each Project Governance Board meeting.

DeepMind shall report on Milestone achievements at each Project Governance Board meeting.

7. **Product updating**

If issues arise that require code updates or amendments to code or configuration then DeepMind will advise the Trust and propose a solution and where necessary a workaround pending a full solution. Once agreed then the solution will be completed either as a minor or major project.

If new code is developed and tested as part of either the DeepMind Software or the FHIR API Development Programmes then the changes will be planned into a regular upgrade schedule and applied in accordance with the agreed change processes and procedures.

8. **Development of Procedures**

The Parties shall use their reasonable endeavours to document and agree the procedures to be followed under this Agreement within ninety (90) days of the Effective Date. Such procedures may include:

- support call management

- problem and incident handling
- data quality and correction management
- change management
- adding and removing minor projects
- reporting of KPIs, SLAs and Milestones

## **SCHEDULE 7 MINIMUM ACCEPTANCE TESTS ACCEPTANCE CRITERIA AND PROCEDURES**

- 1.1 The main objective of Acceptance Testing is to ensure the requirements specified in the Agreement schedules are met by the DeepMind.
- 1.2 The principles for the Acceptance Test process are set out in this Schedule and in Agreement Clause 3.2. These will be documented in more detail within ninety (90) days of Agreement signature and will be set out in a Project Initiation Document (PID).

### **ACCEPTANCE TESTS**

- 1.3 The requirement is for the delivery of Stream's Mobile Platform and FHIR infrastructure with specified interfaces, performance standards and services. Acceptance Tests will be carried out using test scripts produced by the Trust. DeepMind will make available to the Trust its test scripts and will assist the Trust in the development of scripts as required by the Trust. DeepMind will also assist the Trust during the testing process and will have appropriately skilled staff on the Trust site during testing times.
- 1.4 The Acceptance Tests will be carried out in phases as set out in the timetable in the Project Initiation Document. The Streams and FHIR testing will be completed, including interfacing between all systems before going into live operation. On successful completion of the Acceptance Tests for each Phase(s) the Trust will issue the DeepMind with a Phase Achievement Certificate.
- 1.5 DeepMind will complete its own testing process before handing Streams over to the Trust for Acceptance. Any scripts used by the DeepMind in its own testing will be available to the Trust. DeepMind must evidence this testing has taken place. The Trust shall have the right to inspect all testing records and to witness testing if it so wishes.
- 1.6 The Trust and DeepMind will complete such Acceptance Testing, by the planned acceptance dates set out in the implementation plan timetable contained in the Project initiation Document.

### **ACCEPTANCE TEST SCRIPTS**

- 1.7 During the pre-installation planning for Implementation, the Trust will produce test scripts ("Scripts") with the assistance of DeepMind. The Scripts will be used to test that the Streams Mobile and FHIR meets the requirements specified in the Project Initiation Document.

## ACCEPTANCE TESTS PROCESS

### 1.8 Acceptance Criteria (to be supported by Test Scripts as stated above):

TEST DEFINITION	ACCEPTANCE CRITERIA
<b>FHIR</b>	DeepMind will demonstrate to the Trust that the FHIR Infrastructure is working as specified prior to the Trust carrying out its formal Acceptance Tests
<b>Testing of Streams Mobile</b>	Using Trust scripts and anonymised data, the Trust will test that all the functionality stated in Schedule 4 (against agreed plan) is available and working as specified. DeepMind will assist the Trust in developing scripts. DeepMind will be available on the trust site to assist the trust as required during the testing.
<b>Testing of Interfaces to third parties and existing trust information system</b>	DeepMind will demonstrate to the Trust that the interfaces are working as specified prior to the Trust carrying out its formal acceptance tests.
<b>Transaction performance</b>	DeepMind will demonstrate that the performance of the system meets the standards set out in Schedule 6 (DeepMind Software and FHIR API Support and Maintenance Services). The Trust will then, using its scripts, carry out acceptance tests in accordance with standards set out in Schedule 5 (Performance Schedule).
<b>Implementation services</b>	<p>The Trust will verify that:</p> <ul style="list-style-type: none"> <li>○ training has been supplied as specified.</li> <li>○ specified documentation has been provided and is up to date</li> <li>○ support and maintenance processes have been put in place</li> <li>○ Clinical safety and operational</li> </ul>

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	readiness sign-off has been achieved
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## SCHEDULE 8 TRUST'S RESPONSIBILITIES

1.1 The Trust shall, and shall procure that their third party service provider(s) shall, provide each of the following deliverables on or before the relevant due date specified in relation to that deliverable:

<b>Deliverables</b>	<b>Due Date</b>
Establish the Project Governance Board / Information Governance Board and membership.	November 2017
The trust will appoint a Service Manager for the duration of the project and take the lead role in management of the contract.	October 2017
A formal Project Initiation Document (PID) will be produced in Conjunction with the DeepMind team.	November 2017
Nominate a dedicated project team.	November 2017
Regular project meetings will be scheduled between the Trust and DeepMind and include sub-project groups as necessary.	November 2017
Secure VPN connectivity.	November 2017
Test data – ADT / ORM / ORR / ORU or as agreed within the Project initiation Document. This has to be fully representative of live data	November 2017
Test data – reference as agreed within the Project Initiation Document.	November 2017
Merge and error process documentation.	November 2017
Privacy Impact Assessment (PIA)	October 2017
Live data – ADT, ORM/ORR/ORU or as agreed within the Project Initiation Document	Quarter 2 2018
Live data – reference as agreed within the Project Initiation Document.	Quarter 2 2018
Mobile data management solution	November 2017

1.2 For the avoidance of doubt, Clause 8.2 of the Agreement shall apply in the event the Trust fails to provide a deliverable on or before its specified due date.

1.3 The Trust shall provide suitable access to locations reasonably required by DeepMind to perform the Services (including without limitation to provide on-site Support Services).

1.4 Software and hardware to be provided by the Trust. The software and hardware required to support the Streams application is to be provided by the Trust, and will be installed and configured by the Trust and DeepMind working co-operatively together.

1.5 The Trust shall provide suitable access to a dedicated room or rooms as reasonably required by DeepMind



1.6 The Trust shall provide suitable internet access as reasonably required by DeepMind

1.7 The Trust will identify appropriately trained staff to be trained as system trainers and provide end user training based upon cascade training. The Trust will maintain a register of persons who have completed the training and are deemed to be competent to use the system.

1.8 The Trust's responsibilities in respect of testing will apply to the initial implementation of the DeepMind Software, any upgrade, new release or new module supplied under the Agreement in a timely manner.

1.9 The Trust will provide third party test environment for integration testing or where no test environment is available only test data will be used.

1.10 The Trust will ensure that its staff comply with DeepMind's helpdesk system for reporting of all incidents involving the DeepMind Software

1.11 The Trust will ensure that its staff are available to attend the monthly service management meetings

1.12 The Trust will participate in DeepMind's agile development process in respect of any software developments agreed through the Project Governance Board.

1.13 The Trust will contribute to developing and reviewing any user stories or any new functionality that is agreed and will carry out any testing in accordance with Schedule 7 (Minimum Acceptance Tests).

1.14 The Trust will ensure there are sufficient Trust resources for go-live support including floor walkers, trouble shooting and key users for all locations.



1.2 DeepMind shall ensure that it provides sufficient resource to fulfil the following specific roles for the duration of the Services, as may be reasonably required by The Trust:

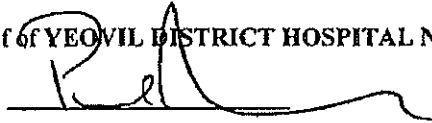
POSITION/ROLE	NAME (AS OF EFFECTIVE DATE)	CONTACT DETAILS (AS OF EFFECTIVE DATE)

1.3 Any changes to the names or contact details of the personnel recorded in this Schedule shall be notified by one party to the other at the next available Project Governance Board meeting.

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Signed for and on behalf of YEOVIL DISTRICT HOSPITAL NHS FOUNDATION TRUST by:

Signature:



Print Name:

PAUL MEARS

Position:

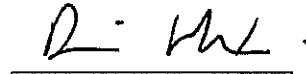
CHIEF EXECUTIVE

Date:

12.10.17

Signed for and on behalf of DEEPMIND TECHNOLOGIES LIMITED by:

Signature:



Print Name:

DEMIS HASSABIS

Position:

CEO

Date:

17/10/17